

REMARKS

The pending Office Action addresses and rejects claims 1 and 3-29. Reconsideration is respectfully requested in view of the following remarks.

Amendments to the Claims

Applicant amends claims 1 and 10 to recite that the mouthpiece includes a protrusion that is adapted to both expand the oral cavity and prevent air from entering the patient's mouth. Applicant amends claim 17 to include the limitations of claims 18 and 23, and in particular recites positioning a mouthpiece having a protrusion into a patient's mouth so that the protrusion both expands the oral cavity and prevents air from entering the patient's mouth. Applicant amends claim 16 to fix a typographical error. Claims 18 and 23 are cancelled, and claims 19-21, 24, and 26 are amended to depend from claim 17 rather than cancelled claim 18.

Applicant adds new claims 30-32, which recite additional limitations related to the mouthpiece and its protrusion. More specifically, claims 30-31 recite that the protrusion both extends between the upper and lower portions of the mouthpiece and is adapted to protrude through the patient's mouth such that at least a portion of the protrusion can be adapted to be positioned between a patient's lips. Claim 32 recites that the protrusion extends between the upper and lower portions of the mouthpiece and protrudes through the patient's mouth such that at least a portion of the protrusion can be positioned between a patient's lips. Support for these amendments can be found throughout the specification and drawings, at least at paragraph [0030] of the published application. No new matter is added.

Rejections Pursuant to 35 U.S.C. §103

Claims 1 and 3-29

The Examiner rejects claims 1 and 3-29 pursuant to 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,957,133 of Hart in view of U.S. Patent No. 6,571,798 of Thornton. Applicant disagrees.

Independent claims 1 and 10 recite that the mouthpiece includes a protrusion that is adapted to both expand the oral cavity and prevent air from entering the patient's mouth. Independent claim 17 similarly recites a method that includes positioning a mouthpiece having a protrusion into a

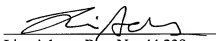
patient's mouth so that it expands the oral cavity and prevents air from entering the patient's mouth. The Examiner's proposed combination of Hart and Thornton does not teach or even suggest these features. More specifically, neither Hart nor Thornton teach expanding the oral cavity by way of a protrusion as part of the mouthpiece. The mouthpiece (10) of Hart does not even include anything that can be considered to be a protrusion like the protrusion claimed by Applicant. As for Thornton, although it does teach a venting seal (24), the venting seal (24) is shaped to seal around the user's lips and it does not have a configuration that would expand the oral cavity. Col. 6, lines 45-47. Accordingly, independent claims 1, 10, and 17, as well as claims 3-9, 11-16, and 18-32 which depend therefrom, distinguish over Hart in view of Thornton and represent allowable subject matter.

Conclusion

Applicant submits that all pending claims are in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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